

CONSTITUTIONAL AMENDMENT

C

Shall the Utah Constitution be amended to:

- authorize the Legislature to convene into a limited session if two-thirds of the Utah Senate and House members agree that convening is necessary because of a fiscal crisis, war, natural disaster, or emergency in the affairs of the state;
- require the Governor to reduce state expenditures or convene the Legislature into session if state expenses will exceed revenue for a fiscal year; and
- require a session of the Legislature, other than the 45-day annual general session, to be held at the state capitol, unless it is not feasible due to a specified condition?

Ballot Title	Legislative Votes	Bill Title & Session
<input type="checkbox"/> FOR	Utah Senate 24 Yes 4 No 1 Not Present	2018 Legislative General Session
<input type="checkbox"/> AGAINST	Utah House of Representatives 66 Yes 0 No 9 Not Present	House Joint Resolution (H.J.R.) 18 <i>Proposal to Amend Utah Constitution -- Special Sessions of the Legislature</i>

IMPARTIAL ANALYSIS

Constitutional Amendment C makes three main changes to the Utah Constitution. The Amendment: (1) allows the president of the Utah Senate and the speaker of the Utah House of Representatives to convene the Legislature into session under certain limited circumstances; (2) requires the Governor to take certain action if the state’s expenditures will exceed revenue for a fiscal year; and (3) requires a session of the Legislature convened by the Governor or the Legislature to be held at the state capitol in Salt Lake City unless it is not feasible due to certain circumstances.

1. Legislative Sessions

Current Provisions of the Utah Constitution

The current Utah Constitution provides two ways for the Legislature to meet together -- or convene -- in a session to conduct the legislative business of considering and passing laws. First, the Utah Constitution requires the Legislature to meet each year in a 45-day general session. The Constitution does not place any limits on the business that the Legislature may consider during an annual general session.

Second, the Constitution authorizes the Governor to convene the Legislature into session, commonly referred to as a special session, at a time other than an annual general session for no more than 30 days. The business that the Legislature may consider during a session convened by the Governor is limited to the business specified by the Governor.

Other than the annual general session and a session convened by the Governor, the Utah Constitution does not provide for the convening of the Legislature into session.

Effect of Amendment C

Amendment C authorizes the Legislature to be convened into session at a time other than the 45-day annual general session or when the Governor convenes the Legislature into session. The Amendment authorizes the president of the Utah Senate and the speaker of the Utah House of Representatives to convene the Legislature into session if two-thirds of all Senate and House members are in favor of convening because in their opinion a persistent fiscal crisis, war, natural disaster, or emergency in the affairs of the state requires convening. The business that the Legislature may conduct during the session is limited to the business specified in a proclamation that the Senate president and House of Representatives speaker issue to convene the session.

Amendment C contains the following additional limitations on a session convened by the president and speaker:

- the session may not be convened within the 30 days following the completion of a 45-day annual general session;

CONSTITUTIONAL AMENDMENT C

- the session may not last more than 10 calendar days; and
- the total amount of money that the Legislature authorizes to be spent may not exceed 1% of the total amount authorized to be spent for the immediately preceding fiscal year.

2. Requirements if State Expenditures Exceed State Revenue

Current Provisions of the Utah Constitution

Under the current Utah Constitution, the Legislature authorizes the spending of state money for each fiscal year, which is a period beginning July 1 and ending the following June 30. The spending authorizations occur before the start of a fiscal year and are based on projections of future state revenue for that same period. The Legislature may not authorize more money to be spent during a fiscal year than the state is expected to receive during that period.

If actual revenue during any fiscal year turns out to be less than the amount of money the Legislature previously authorized to be spent, the Governor may, in the manner and in the amounts chosen by the Governor, reduce the amount that state agencies spend. Alternatively, the Governor may, but is not required to, convene the Legislature into session to adjust the amount of money to be spent to match the amount of state revenue.

Effect of Amendment C

Amendment C requires the Governor to take one of two actions if the state's expenses will exceed the state's revenue for a fiscal year. The Governor must either (1) reduce proportionately the amount of money spent, except for money spent for the state's debt, or (2) convene the Legislature into session so that the Legislature may address the revenue shortfall.

3. Location of Legislative Sessions

Current Provisions of the Utah Constitution

The current Utah Constitution requires each 45-day annual general session of the Legislature to be held at the state capitol in Salt Lake City and does not provide any exception to that requirement. The Constitution does not currently specify the location for a session convened by the Governor.

Effect of Amendment C

Amendment C requires a session of the Legislature that is convened by the Governor or a session convened by the Senate president and House speaker, as authorized under Amendment C, to be held at the state capitol in Salt Lake City. The Amendment makes an exception to that requirement if convening at the state capitol is not feasible due to epidemic, natural or human-caused disaster, enemy attack, or other public catastrophe.

Effective Date

If approved by voters, Constitutional Amendment C takes effect January 1, 2019.

Fiscal Impact

If the Legislature follows past practice and convenes into session on days when the Legislature is holding meetings anyway, Amendment C will not have a material impact on state costs. The legislative fiscal analyst estimates that the Legislature convening into session on a day other than a day when the Legislature is holding meetings anyway will increase state costs by \$50,000 for each day the Legislature is convened in session.

ARGUMENT IN FAVOR

Vox populi. The "voice of the People." That phrase refers to the Legislature, the People's elected representatives. Yet currently in Utah, that voice is effectively silenced more than ten months of the year. Even if facing a critical need affecting Utah residents, the Legislature is without power to speak for the People to address and resolve that need without gubernatorial permission.

Constitutional Amendment C enables the voice of the People to speak for them any time there is a critical need – not just during the 45 days of the annual general session. Those instances will be rare, but the residents of Utah should not be deprived of their voice when there is an immediate need for action.

Constitutional Amendment C specifies the very limited circumstances under which the Legislature can be called into session outside the annual 45-day general session. First, two-thirds of all members of both the Senate and House of Representatives must agree that convening the Legislature is necessary because of a persistent fiscal crisis, war, natural disaster, or emergency in the affairs of state. Second, the session cannot be convened within 30 days of the annual

CONSTITUTIONAL AMENDMENT C

45-day general session and can last no more than 10 calendar days. Finally, only 1% of the state's annual budget could be affected during the session.

In addition to allowing the voice of the People to speak on a critical issue facing the state, Constitutional Amendment C also provides a safeguard against the state spending more than it takes in. The Amendment enables the Governor to reduce state expenditures to avoid overspending or to call the Legislature into session to deal with the shortfall.

The residents of 35 other states have the ability for their voices to be heard through their elected representatives in a session convened by their legislatures. Utah's residents also deserve to have their voice heard through their elected representatives in the Legislature in a moment of critical need. Constitutional Amendment C ensures that the People's voice will have the opportunity to be heard if and when that moment arises.

Vote FOR Constitutional Amendment C.

- Representative Brad Wilson and Senator Hemmert

REBUTTAL TO ARGUMENT IN FAVOR

In my 38 years serving in the legislature, I can think of only one time that the governor and legislative leaders disagreed about the need to call a special session. All other times we have been able to work out a compromise to either resolve the issue without legislative action or to enter a special session under a clearly stated agenda. I cannot imagine a natural disaster that is serious enough that the legislature would want to call itself into special session and the governor would not want to act as well. Historically, when we have had a mid-year budget shortfall, the governor has usually had the necessary tools to handle the issue immediately to create a stop-gap until the next legislative session.

If we have the power to call ourselves into special session, I am concerned about how expanded the agenda for the special sessions may be without more clearly defined limitations than what are set forth in this proposed amendment. Expanded days for meetings for the legislature limits who can take their time from work and families to serve as legislators. This is an unnecessary expansion of legislative powers that is not in the best interest of the State especially within the context of separation of powers set forth in our Constitution.

Senator Lyle Hillyard

ARGUMENT AGAINST

In my experience, special sessions can be nightmares. The notice is usually short and the session is only one day. These problems prevent the general public and those with concerns about unintended consequences of proposed legislative action from being able to express their concerns and help improve the legislation. This public input is what makes the legislative process work.

Currently, a special session can only be called by the governor, who must set the agenda. The legislature is free to approve, amend or reject the presented issue. This process has worked well over the last 100+ years as established in our state Constitution. The mischief can occur when others try to add additional items to the agenda that may at first appear simple, but public debate and input may reveal unintended consequences that we need to consider.

This proposed change would allow the legislature to bypass the governor by the legislature calling a special session, even over the governor's objection, and then pass bills with a 2/3 majority leaving him no power to veto.

Finally, I am concerned about the constant pressure to move us from a part-time to a full-time legislature. Adding the power for the legislature to call a special session puts added pressure on legislators to continue meeting. We do enough damage in the regular 45-day session.

Senator Lyle Hillyard

REBUTTAL TO ARGUMENT AGAINST

Special legislative sessions *can* be challenging. But what would be even more challenging is to have a critical need of the state go unmet because the Legislature was powerless to act. Constitutional Amendment C enables the Legislature to be the voice of the People at a time of critical need. It is carefully designed to avoid the potential problems mentioned in the opposing argument.

CONSTITUTIONAL AMENDMENT C

The Amendment does not change the Governor's ability to veto a bill passed by the Legislature. The Governor maintains veto power over legislation passed at a session under this proposal the same as with any other legislation.

Adding further last-minute items to the agenda of a session under Amendment C is not possible. The Senate president and House speaker are required to issue a joint proclamation clearly defining the critical issues to be considered at the session. The Amendment forbids the Legislature from considering any other item of business.

Finally, the Amendment carefully safeguards the model of a part-time Legislature that has served Utah so well for over 100 years. The Amendment recognizes only a very narrow set of circumstances that would justify the Legislature calling itself into session. The restrictions on when, why, and for how long the Legislature may convene under this proposal are entirely supportive of the idea of a part-time Legislature.

The Amendment ensures that the Legislature has the ability to be the voice of the People at a time of critical need.

Please join me in voting FOR Constitutional Amendment C.
Representative Brad Wilson & Senator Hemmert

FULL TEXT OF CONSTITUTIONAL AMENDMENT C

PROPOSAL TO AMEND UTAH CONSTITUTION -- SPECIAL SESSIONS OF THE LEGISLATURE

2018 General Session

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VI, SECTION 2

ARTICLE VI, SECTION 16

ARTICLE VII, SECTION 7

ARTICLE XIII, SECTION 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VI, Section 2, to read:

Article VI, Section 2. [Time and location of annual general sessions -- Location of sessions convened by the Governor or Legislature -- Sessions convened by the Legislature.]

(1) Annual general sessions of the Legislature shall be held at the seat of government and shall begin on the fourth Monday in January.

(2) A session convened by the Governor under Article VII, Section 6 and a session convened by the Legislature under Subsection (3) shall be held at the seat of government, unless convening at the seat of government is not feasible due to epidemic, natural or human-caused disaster, enemy attack, or other public catastrophe.

(3) (a) The President of the Senate and Speaker of the House of Representatives shall by joint proclamation convene the Legislature into session if a poll conducted by the President and Speaker of their respective houses indicates that two-thirds of all members elected to each house are in favor of convening the Legislature into session because in their opinion a persistent fiscal crisis, war, natural disaster, or emergency in the affairs of the State necessitates convening the Legislature into session.

(b) The joint proclamation issued by the President and Speaker shall specify the business for which the Legislature is to be convened, and the Legislature may not transact any business other than that specified in the joint proclamation, except that the Legislature may provide for the expenses of the session and other matters incidental to the session.

(c) The Legislature may not be convened into session under this Subsection (3) during the 30 calendar days immediately following the adjournment sine die of an annual general session of the Legislature.

(d) In a session convened under this Subsection (3), the cumulative amount of appropriations that the Legislature makes may not exceed an amount equal to 1% of the total amount appropriated by the Legislature for the immediately preceding completed fiscal year.

(e) Nothing in this Subsection (3) affects the Governor's authority to convene the Legislature under Article VII, Section 6.

Section 2. It is proposed to amend Utah Constitution, Article VI, Section 16, to read:

Article VI, Section 16. [Duration of sessions.]

~~[(1)]~~ Except in cases of impeachment[:];

(1) no annual general session of the Legislature may exceed 45 calendar days, excluding federal holidays[:];

(2) ~~no~~ no session of the Legislature convened by the Governor under Article VII, Section 6 may exceed 30 calendar days~~[:except in cases of impeachment.];~~ and

(3) no session of the Legislature convened by the Legislature under Article VI, Section 2, Subsection (3) may exceed 10 calendar days.

CONSTITUTIONAL AMENDMENT C

Section 3. It is proposed to amend Utah Constitution, Article VII, Section 7, to read:

Article VII, Section 7. [Adjournment of Legislature by Governor.]

In case of a disagreement between the two houses of the Legislature at any special session convened by the Governor under Article VII, Section 6, with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as the Governor may think proper if it is not beyond the time fixed for the convening of the next Legislature.

Section 4. It is proposed to amend Utah Constitution, Article XIII, Section 5, to read:

Article XIII, Section 5. [Use and amount of taxes and expenditures.]

(1) (a) The Legislature shall provide by statute for an annual tax sufficient, with other revenues, to defray the estimated ordinary expenses of the State for each fiscal year.

(b) If the ordinary expenses of the State will exceed revenues for a fiscal year, the Governor shall:

(i) reduce all State expenditures on a pro rata basis, except for expenditures for debt of the State; or

(ii) convene the Legislature into session under Article VII, Section 6 to address the deficiency.

(2) (a) For any fiscal year, the Legislature may not make an appropriation or authorize an expenditure if the State's expenditure exceeds the total tax provided for by statute and applicable to the particular appropriation or expenditure.

(b) Subsection (2)(a) does not apply to an appropriation or expenditure to suppress insurrection, defend the State, or assist in defending the United States in time of war.

(3) For any debt of the State, the Legislature shall provide by statute for an annual tax sufficient to pay:

(a) the annual interest; and

(b) the principal within 20 years after the final passage of the statute creating the debt.

(4) Except as provided in Article X, Section 5, Subsection (5)(a), the Legislature may not impose a tax for the purpose of a political subdivision of the State, but may by statute authorize political subdivisions of the State to assess and collect taxes for their own purposes.

(5) All revenue from taxes on intangible property or from a tax on income shall be used to support the systems of public education and higher education as defined in Article X, Section 2.

(6) Proceeds from fees, taxes, and other charges related to the operation of motor vehicles on public highways and proceeds from an excise tax on liquid motor fuel used to propel those motor vehicles shall be used for:

(a) statutory refunds and adjustments and costs of collection and administration;

(b) the construction, maintenance, and repair of State and local roads, including payment for property taken for or damaged by rights-of-way and for associated administrative costs;

(c) driver education;

(d) enforcement of state motor vehicle and traffic laws; and

(e) the payment of the principal of and interest on any obligation of the State or a city or county, issued for any of the purposes set forth in Subsection (6)(b) and to which any of the fees, taxes, or other charges described in this Subsection

(6) have been pledged, including any paid to the State or a city or county, as provided by statute.

(7) Fees and taxes on tangible personal property imposed under Section 2, Subsection (6) of this article are not subject to Subsection (6) of this Section 5 and shall be distributed to the taxing districts in which the property is located in the same proportion as that in which the revenue collected from real property tax is distributed.

(8) A political subdivision of the State may share its tax and other revenues with another political subdivision of the State as provided by statute.

(9) Beginning July 1, 2016, the aggregate annual revenue from all severance taxes, as those taxes are defined by statute, except revenue that by statute is used for purposes related to any federally recognized Indian tribe, shall be deposited annually into the permanent State trust fund under Article XXII, Section 4, as follows:

(a) 25% of the first \$50,000,000 of aggregate annual revenue;

(b) 50% of the next \$50,000,000 of aggregate annual revenue; and

(c) 75% of the aggregate annual revenue that exceeds \$100,000,000.

Section 5. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 6. Contingent effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2019.
